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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,080	06/19/2003	John L. Magnani	400068.413	7045

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EXAMINER

EBRAHIM, NABILA G

ART UNIT	PAPER NUMBER
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1618

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-3, drawn to a method of screening in vivo for condition requiring or associated with angiogenesis, classified in class 424, subclass 9.2.
 - II. Claims 4-11, drawn to a method of screening in vitro for condition requiring or associated with angiogenesis, classified in class 435, subclass 7.1.
 - III. Claims 12-15, drawn to a method of treating a condition requiring or associated with angiogenesis, classified in class 514, subclass 8.
 - IV. Claim 16, drawn to a method for promoting angiogenesis in tissue engineering, classified in class 514, subclass 12.
 - V. Claims 17-20, drawn to a conjugate comprising compounds shown in figure 1 covalently attached to a diagnostic or therapeutic agent, classified in class 530, subclass 395.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the screening method is designed for in vivo is used for living tissue, with absolute caution

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to conserve the living tissue, while the screening method used in vitro is designed for non-living tissue of human, animal, a test-tube ...etc.

3. Inventions III and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case Invention III requires adjusting an effective amount of the compounds disclosed and administering them regularly to therapeutically affect an angiogenesis associated condition while Group I is a screening (diagnostic) method that is not used regularly and is not involved in the therapy of the condition.

4. Inventions IV and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions Group IV is related to tissue engineering, which is result, oriented, while Group I is a diagnostic method.

5. Inventions V and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the screening can be done using a different conjugate or composition.

6. Inventions III and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs,

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modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions Group III is a treating method that requires adjusting an effective amount of the compounds disclosed and administering them regularly to therapeutically affect an angiogenesis associated condition while Group II is a screening method in vitro that needs different design and procedures.

7. Inventions IV and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, Claim IV is related to tissue engineering, which is result-oriented procedure, while Group II is a screening method, which is a testing method.

8. Inventions V and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the screening can be done using a different conjugate or composition.

9. Inventions IV and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions, Invention III requires adjusting an effective amount of the compounds disclosed and administering them regularly to therapeutically affect an

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angiogenesis associated condition while invention IV is a result-oriented method of promoting tissue engineering.

10. Inventions V and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the conjugate can be used in a therapy process for a disease or a condition.

11. Inventions V and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the conjugate can be used in a therapy process for a disease or a condition.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

12. A telephone call was made to Mr. Richard Sharkey on 5/16/2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

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requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabila G. Ebrahim whose telephone number is 571-272-8151. The examiner can normally be reached on 8:00AM-5:00PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nabila Ebrahim, M.D.

5/16/2006


MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER